

SENTENCING MINUTES

Date: 01/31/2020

Judge: T.S. ELLIS III
Reporter: P. Kaneshiro-Miller
Time: 10:58 a.m. – 11:12 a.m.
11:34 a.m. – 12:10 p.m.
(00:50)
Case Number: 1:19-cr-00258-TSE-1

UNITED STATES OF AMERICA

Counsel/Govt: Gwendelynn Bills, Whitney Russell

v.

MARK VISCONI

Counsel/Deft: Sean Marvin, Kenneth Philips

- Letters submitted to the Court by the defendant to be made part of the PSR.
- The Defendant objects assets calculated in the PSR. Defense advised the court that defendant is going through a divorce and assets are being decided upon. Court rules in the midst of a divorce which will have an effect on the defendant's assets is not material to court's sentencing and the parties have agreed to a restitution order.
- Government request a 97-month sentence w/10-year SR term.
- Defense request a statutory minimum g/l sentence.

Court adopts PSI (☒) without exceptions (☒) with exceptions (☐)

JUDGMENT OF THE COURT:

- BOP for 60 months, mandatory min.
- Supervised Release for 15 Years, with special conditions: (☒) Yes (☐) No
- Special Assessment of \$5,000
- Restitution of \$5,000 imposed. Order entered in open court.
- Special Assessment \$100
- Consent Order of Forfeiture entered in open court.
- Defendant advised of his right to appeal.

SPECIAL CONDITIONS:

- 1) The defendant to complete fifty (50) hours of community service under the supervision of the probation officer, which involves writing or speaking to the appropriate population about his experience and that there are significant consequences in criminal behavior.
- 2) The defendant shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the defendant has reverted to the use of drugs or alcohol, with partial cost to be paid by the defendant, all as directed by the probation officer.
- 3) The defendant shall participate in a program approved by the United States Probation Office for mental health treatment, to include a psychosexual evaluation and sex offender treatment. The costs of these programs are to be paid by the defendant as directed by the probation officer. The defendant shall waive all rights of confidentiality regarding sex offender/mental health treatment to allow the release of information to the United States Probation Office and authorize communication between the probation officer and the treatment provider.
- 4) The defendant shall not utilize any sex-related adult telephone services, websites, or electronic bulletin boards. The defendant shall submit any records requested by the probation officer to verify compliance with this condition including, but not limited to, credit card bills, telephone bills, and cable/satellite television bills.

- 5) The defendant shall not purchase, possess or view any sexually explicit material or images using young juvenile models under the age of 18 in any format including, but not limited to, in magazines, books, on the computer, or any electronic device, in videos, movies, and television.
- 6) The defendant shall have no contact with minors unless supervised by a competent, informed adult, approved in advance by the probation officer.
- 7) The defendant shall not engage in employment or volunteer services that allow him/her access to computers or minors.
- 8) Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall register with the state sex offender registration agency in any state where the defendant resides, works, and attends school, according to federal and state law and as directed by the probation officer.
- 9) Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall submit to a search of his person, property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects at any time, by any law enforcement or probation officer with reasonable suspicion concerning unlawful conduct or a violation of a condition of supervision, upon prior notification to and approval by the court or with a warrant.
- 10) The defendant shall comply with the requirements of the computer monitoring program as administered by the probation office. The defendant shall consent to the installation of computer monitoring software on any computer to which the defendant has access. Installation shall be performed by the probation officer. The software may restrict and/or record any and all activity on the computer, including the capture of keystrokes, application information, internet use history, email correspondence, and chat conversations. A notice will be placed on the computer at the time of installation to warn others of the existence of the monitoring software. The defendant shall also notify others of the existence of the monitoring software. The defendant shall not remove, tamper with, reverse engineer, or in any way circumvent the software. The costs of the monitoring shall be paid by the defendant.
- 11) During the term of supervision, the defendant shall not possess or utilize any video gaming system, console, or other such device which would enable contact and/or the sharing of data with other individuals known or unknown to the defendant.
- 12) The defendant shall provide the probation officer access to any requested financial information.
- 13) The defendant shall apply all monies received from income tax refunds, lottery winnings, inheritances, judgments, and any anticipated or unexpected financial gains, to the outstanding court-ordered financial obligation, or in a lesser amount to be determined by the court, upon the recommendation of the probation officer.
- 14) The defendant shall submit to polygraph testing as directed by the United States Probation Officer. The costs of the testing are to be paid by the defendant, as directed by the probation officer.

RECOMMENDATIONS to BOP:

 X Dft. To be designated to: a facility in Colorado to be near his family.
 Dft. designated to facility to participate in ICC (Boot Camp) type program
 Dft. to participate in 500 hr Residential Drug Abuse Treatment Program (RDAP)
 Other: _____

Deft: (X) Remanded () Cont'd on Bond to Self-Surrender () Referred to USPO () Immediate Deportation